

REMARKS

The amendments and remarks presented herein are believed to be fully responsive to the Office Action.

Claims 1-3, 6, 7, 10, 11 and 16-18 are pending in the present application. Claims 1 and 17 have been amended and claim 16 has been canceled. Claim 1 has been amended to comply with 35 U.S.C. §101 statutory subject matter requirements in accordance with the Examiner's suggested formats at the Interview dated February 10, 2009. Claim 17 has been amended to correct a grammatical error. No new matter has been added. The independent claims recited by the present application are claims 1 and 17.

Summary of Interview with the Examiner Uber

Attorney (Changhoon Lee) for the Applicant conducted a telephonic interview with Examiner Nathan C. Uber regarding the present application on February 10, 2009. The discussion between Examiners and Attorney focused on the claimed invention and the cited prior art reference. Attorney presented that distinguished limitations of the present claims are not taught or suggested by combination of the cited prior art references. No agreement was reached with regard to Attorney's position. With regard to 35 U.S.C. §101 statutory subject matter requirements, Examiner suggested that, based on Examiner's current understanding of the 101 requirement, the server/processor perform the "detecting" and "generating" steps of the method claims to overcome the 101 rejection. Attorney furtherer argued that it is not obvious for one of ordinary skill in the art to combine charging commission-like fee for the outlet service in the context of marketplace shopping mall service and charging a flat fee for the price comparison service in the context of price comparison website without further teachings or suggestions because context of those functions are different.

A. Claim Rejections under 35 U.S.C. § 101

The Office Action rejects claims 1-3, 6, 7, 10-16 and 18 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Office Action notes that a method/process claim must (1) be tied to another statutory class of invention or (2) transform underlying subject matter (such as an article or material) to a different state or thing. The Office

Action states that claims 1-3, 6, 7, 10-16 and 18 fail to meet one of the above-requirements because they are not tied to a second statutory class. Applicants respectfully traverse these rejections. Nonetheless, Applicant respectfully amends claim 1 herewith by reciting "wherein the steps of detecting a click-through and generating advertising costs are performed by a server that comprises a processor and said at least one memory" in accordance with the Examiner's suggestions. Further, since claim 16 has been cancelled, the rejection thereof is moot.

B. Claim Rejections under 35 U.S.C. § 103

The Office Action states that claims 1, 10, 16 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cassidy et al., U.S. Patent No. U.S. 7,107,226 (hereinafter "Cassidy '226") in view of Cheung et al., U.S. Patent No. U.S. 7,043,471 (hereinafter "Cheung '471"). Applicants respectfully traverse these rejections. Nonetheless, since claim 16 has been cancelled, the rejection thereof is moot.

Claim 1

By way of background and illustration, claim 1 describes a method (and computer-readable media having stored thereon a computer program implementing a method) of charging commission-like service fee for price comparison website services based on users' click-through and the selling price of the selected item whereas Cassidy '226 discloses a method of charging commission for their outlet service of an e-commerce marketplace.

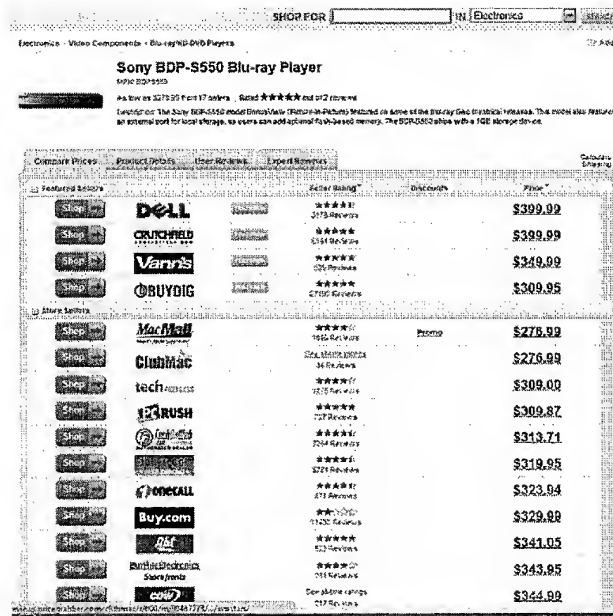
• Prior Art (Background of the Present Invention)

Prior to the present application, the following conventional technologies were known in the art:

1. Price Comparison Service Website;
2. Online Marketplace Virtual Shopping Mall wherein the service provider charges third party sellers commission like fee based on the selling price of products sold at the marketplace shopping mall website.

The conventional shopping mall operator charges commission per transaction or order to third party vendors whereas the conventional price comparison service operator charges the third party sellers in a cost-per-click fee scheme.

1. Price Comparison Service Website



The conventional price comparison service (also known as price engine) allows individuals to see lists of prices for specific products. Most price comparison services do not sell products at their websites, but source prices from third party retailers from whom users can buy. As illustrated in the above exemplary screenshot of a commercial price comparison website (i.e. Pricegrabber.com®), upon receipt of the user's selection of a listed item of the price comparison service, the price comparison service website (i.e. Pricegrabber.com®) directs the user to the third party vendor's website, whereby the user can purchase the selected item at the vendor's website, not at the price comparison website.

Depending on the particular business model of the comparison shopping site, retailers will either pay a flat fee to be included on the price comparison website or pay a fee each time a user clicks through to the retailer web site. Thus, in terms of the fee scheme, the price comparison services is more like a keyword advertising service associated with a typical search engine and it uses CPC (Cost Per Click) model for billing. Since the conventional price comparison service does not track order history, the conventional accounting method for the price comparison service can not charge commission-like service fee.

2. Online Marketplace Virtual Shopping Mall wherein the service provides charges commission like fee based on the selling price of products sold at the shopping mall.

Whereas, the conventional e-commerce shopping mall service provides a website implementing a process whereby consumers go through to purchase products on the virtual shopping mall website over the Internet. The key difference between the price comparison service and the e-commerce shopping mall service is where a transaction occurs, that is, where an order is placed by consumers. For example, ebay.com® provides an e-commerce open marketplace. Consumers can purchase products from third-party sellers at the ebay® website such that the consumers can place an order at www.ebay.com website without transfer to an individual vendor's website. Amazon.com® also powers and operates virtual marketplace wherein third party sellers including individual users and corporations such as Target, Sears and Marks & Spencer sell their products at the amazon.com website. Since all the transaction are completed at the online marketplace website, the service provider for the virtual marketplace, such as ebay.com® and Amazon.com®, often charges the third party sellers commission based upon the selling price when transaction is complete or an order is placed.

B. The Claimed Invention

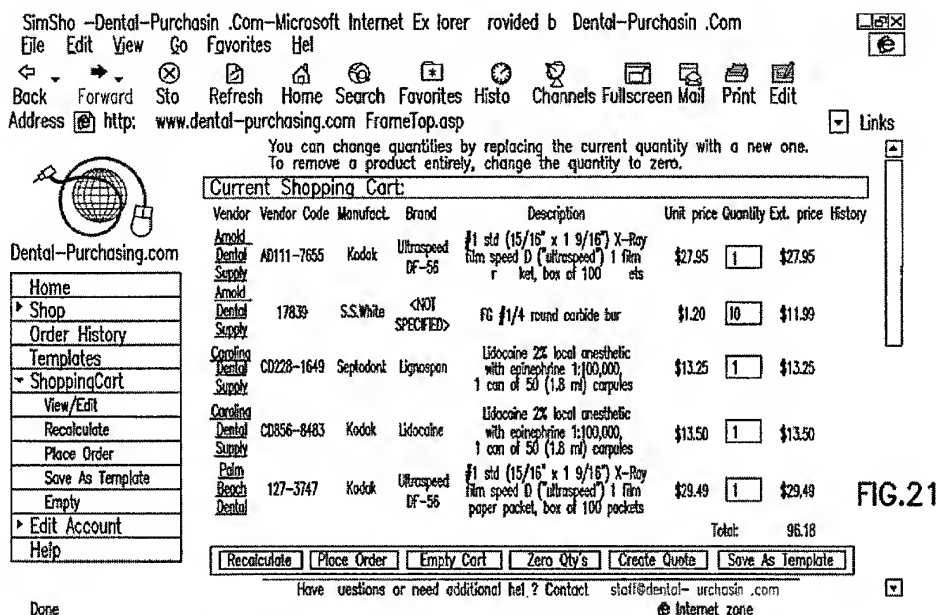
FIG. 4

WEB SEARCH	▼	Dios refrigerator	SEARCH
SHOPPING MALL	GOODS	PRICE	GOTO
Buyls	[LG][Dios refrigerator][R-S584GMJ]	849,000	shortcut
Outlet	[LG Electrics][Dios refrigerator]	860,000	shortcut
Gmarket	(Seoul/only in metropolitan)Dios refrigerator	865,000	shortcut
Electric land LG Basic Dios	[R-S584GMJ]	872,000	shortcut
.....	shortcut

As illustrated in the Fig. 4 and the specification of the present application, the claimed invention provides a price comparison website, not a virtual shopping mall, which directs users to the third party sellers' websites. To improve accounting system of the conventional price comparison website, the claimed invention computes advertising cost based on potential sale price (listed price) of the advertised products once a user selects a link to a particular third party

seller's website for transaction, irrespective of purchase of the goods at the seller's website. The present invention introduces a novel method of charging commission-like service fee based on click-through and selling price of a product for the price comparison services.

Whereas, the service disclosed in Cassidy '226 is an e-commerce marketplace service because it allows consumers to place an order on its own web site, for example, as illustrated in Fig. 21 of Cassidy '226 below.



Further, Col. 9 Lines 49-60 and Lines 26-39 of Cassidy '226 recites as follows:

The online comparison shopping system of the invention therefore operates **as a virtual mall** for the purveyed products. A direct transactional link is established between the product supplier and the purchaser, thereby facilitating and enabling electronic commerce involving such products. The vendor therefore has an advertising and promotional forum, and hyperlinks may be embedded in the system to the vendors' home pages or other Web sites. The system proprietor, in providing the shopping forum for the vendor's products, thereby provides an outlet service to the vendor, which may be compensated by a mutually agreed compensation schedule or commission rate.

When an order is placed, the user is asked to supply additional information, including for example the user's billing address, shipping address, credit card information, credentials, etc. A total of 11 tables are used to track all of this information, in addition to the information already gathered. These tables

provide the ability to classify users as a certain type of consumer. The shopping cart then is disaggregated and the orders for the goods and/or services are transmitted electronically to the corresponding individual vendors. A copy of the order is stored in the user's order history. Order history involves 2 more tables, a header and a line table, just as with templates. The order history tracks products, quantity, price paid, date, and information regarding the order's status.

Response to the Examiner's Position on Cassidy '226

An important issue of this case is whether Cassidy '226 discloses a virtual shopping mall website with price comparison function or a price comparison service website, just like the claimed invention.

If Cassidy '226 only discloses the virtual shopping mall website, Cassidy '226 could not teach or suggest the claimed invention because the price comparison function of Cassidy '226 is just a supplemental service and the service provider disclosed in Cassidy '226 would charge the third party sellers not for the price comparison service but for the marketplace service based on actual transactions.

The fact that all the components such as bolts, nuts, gears, shafts, and etc are well-known in the art would not teach or suggest an invented machine comprising those well-known components unless the prior art teaches or suggest the configuration of the invented machine. The Examiner may argue that the price comparison function, commission-based fee scheme and embedded hyperlinks to the vendor's home pages are disclosed in Cassidy '226. Applicant has already stated that those individual functions have been known in the different context, even without teachings of Cassidy '226. However, none of the prior art teaches or suggests the claimed method of charging commission-like service fee based on (1) click-through and (2) selling price of a product for the price comparison services. If Cassidy '226 discloses virtual shopping mall website, it, even combined with Cheung '471 that discloses the Cost Per Click billing method, could not teach or suggest the claimed method of charging commission-like service fee based on (1) click-through and (2) selling price of a product for the price comparison services.

Cassidy '226 discloses a price comparison function for the e-commerce marketplace service. For example, Col. 14 Line 51 to Col. 15 Line 13 of Cassidy '226 recites as follows:

FIG. 21 shows a preferred shopping cart page having various items selected. The shopping cart grid will automatically recalculate the price term in the grid as a user changes the quantity information. Thus, for example, FIG. 22 shows a circumstance which the user has changed the quantity of the third item of FIG. 21 to zero. ... FIG. 23 shows a screen print of the shopping cart of FIG. 22 after the "recalculate" option has been selected. ... FIG. 23a shows a variation of the shopping cart interface of the type illustrated in FIG. 23. The shopping cart of FIG. 23a shows the History column as including the link "Purchase History" in each row.

Further, Col. 5, Lines 56-64 of Cassidy '226 recites:

The system of the applicants' invention for online shopping, embodies product information of multiple vendors, manufacturers and products, thereby enabling the user to selectively aggregate an order in the virtual shopping cart across the spectrum of such vendors, manufacturers and products. Once the order has been assembled, the order is electronically disaggregated by the software to produce vendor-specific orders which are transmitted to each individual vendor whose products have been selected.

It is clear that Cassidy '226 discloses an online marketplace shopping mall website (i.e. www.dental-purchasing.com) wherein customers are able to purchase items sold by different third party sellers. The marketplace shopping mall website provides virtual shopping cart, whereby the customers can purchase multiple products sold by different sellers and check out those products at one time. Once the order has been assembled, the order is electronically disaggregated by the software to produce vendor-specific orders which are transmitted to each individual vendor whose products have been selected.

As the Examiner points out in the Office Action, Cassidy '226 discloses the price comparison function. However, unlike the claimed invention, the service provider charges the sellers not for the price comparison service or click-through but for the sales of the sellers' products at the online marketplace shopping mall website as explained in the specification, for example at Col. 7 Lines 25-34:

Other meaningful data that may be stored in the system includes date and time the product information was entered, the name of the individual who entered the product information, the status of products and vendors, the location of a picture of the product (if any), a detailed product description (if any), the location of vendor's Internet home page (if any), and the vendor's commission percentage, as paid by the vendor to the on-line

system operator based on the sales of the vendor's wares at the on-line Web site in operation of the on-line system.

The Examiner further indicates that Cassidy '226 discloses the embedded hyperlinks to the vendor's home pages. However, the direct link does not direct the customer to the supplier's website for placing an order. The Examiner further asserts that "Cassidy make no representation, requirement, or limitation about the purpose a user may have for following the link." (See Office Action Pg. 14). As the Examiner indicates, Cassidy '226 does not disclose any function of the hyperlink to the vendors' websites, except for the general function of the hyperlink which directs users to the linked webpage. Examiner may argue that a user can be directed to the vendor's website by clicking through the hyperlink and then purchase the listed product at the vendor's website. Regardless, it is clear in the context of the Cassidy '226 specification and drawings that Cassidy '226 does not teach charging the affiliated sellers a service fee for the click-through to the vendor's website. According to the above-quoted specification, the system of Cassidy '226 operates as a virtual mall for the purveyed products, thereby provides an "outlet service to the vendor." The embedded hyperlink to the vendor's website disclosed in Cassidy '226 is different from the claimed limitation of "providing an Internet link to a seller of goods associated with one of the provided search listings so that the searcher can purchase the goods at the seller's website" because Cassidy '226 does not teach the method of charging a seller commission-like fee based on the selling price when a user clicks the embedded hyperlink to the seller and purchases a product at the seller's website.

Claim 1 recites the following limitations: **"in response to the detected click-through, generating and storing selling price information by referring to selling price information included in the search listing selected by the searcher; and generating advertising costs, irrespective of purchase of the goods at the seller's website, for each seller for a first predetermined period based, at least in part, upon click-through information, a predetermined selling commission rate and the stored selling price information."**

According to claim 1, the price comparison service provider charges a commission-like fee affiliated sellers for the user's click-through of the internet link to the respective sellers associated with the price comparison search result. Whereas, while the service provider in

Cassidy '226 provides an advertising forum along with hyperlinks to the vendors' home pages as well as the shopping forum for the vendor's products, thereby provides an outlet service to the vendor, only the outlet service may be compensated by a mutually agreed compensation schedule or commission rate.

As such, neither Cassidy '226 nor Cheung '471 nor combination thereof teaches or suggests the claimed invention. Therefore, claim 1 is now in condition for allowance.

Claims 2, 3, 6, 7 and 11

The Office Action states as follows:

Although Cassidy discloses tracking customer order history and remembering shopping cart contents whether or not the customer makes a purchase, Cassidy does not specifically disclose a cost-per-click billing strategy. However, Cheung, as shown, discloses the following limitations: Office Action page 7, lines 6-10.

As discussed above, Cassidy '226 does not disclose cost-per-click billing method because the system disclosed by Cassidy '226 provides not a keyword advertising service but a shopping mall service. The cost-per-click billing method is common for keyword advertising service while commission fee is common for the shopping mall service. The present invention provides a combined method of commission fee and cost-per-click billing strategy and applies the combined method to the price comparison services which is analogous to the keyword advertising. Cassidy '226 discloses application of commission rate for a typical shopping mall service. However, neither Cassidy '226 nor Cheung '471 teaches or suggest application of commission rate based upon click through information to a price comparison service. As such, Cassidy '226 fails to disclose limitations recited in the independent claims 1 of the present application and Cheung '471 still fails to remedy the deficiencies of Cassidy '226 in teaching all the elements and limitations of the claims of the present invention. Neither Cheung '471 nor Cassidy '226 nor their combination disclose or teach all the elements and limitations of the claims of the present invention.

Claims 2, 3, 6, 7 and 11 depend from independent claim 1 and, as such, are in allowable condition since claim 1 is clearly allowable over the cited prior art.

Claims 10 and 18

The Examiner rejected claims 10 and 18 which depend from claim 1 as being unpatentable over Cassidy '226 in view of Cheung '471. The above remarks are equally applicable for the dependent claims 10 and 18. As such, claims 10 and 18 are clearly allowable over the cited prior art.


Claim 17

The other independent claim 17 recites similar distinguishing elements with those of claim 1. Thus, the same arguments apply to those claims.

If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicant's undersigned attorney in this regard.

Respectfully submitted,

Date: April 28, 2009



Changhoon Lee
Reg. No. L0316
Husch Blackwell Sanders LLP
720 Olive Street, Suite 2400
St. Louis, MO 63101
314-345-6000
ATTORNEYS FOR APPLICANT